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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/608,461

Applicant(s)

BOWMAN ET AL.

Examiner

Gabrielle McCormick

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5, 10, 16-18, 20, 25, 30 and 44-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5, 10, 16-18, 20, 25, 30 and 44-49 is/are rejected.
- 7) ☒ Claim(s) 44 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. This action is in reply to the Request for Continued Examination filed on August 21, 2008.
2. Claims 1, 5, 16, 20, 25 and 30 have been amended.
3. Claims 44-49 have been added.
4. Claims 2-4, 6-9, 11-15, 19, 21-24, 26-29 and 31-43 have been canceled.
5. Claims 1, 5, 10, 16-18, 20, 25, 30 and 44-49 are currently pending and have been examined.

Specification

6. The disclosure is objected to because of the following informalities: Page 9, line 27; the claimed term, "keywords" is misspelled as "key works". Appropriate correction is required.
7. The amendment filed August 21, 2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: job seekers being asked to rank their efficiency with each of the skills and each of the tools. Page 6, line 24 discloses that job seekers rank their experience with skills.
8. Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Objections

9. Claim 44 is objected to because of the following informalities: The claim contains the phrase "and asked and asked". It is understood to be a typographical error. Appropriate correction is required.

Claim Rejections - 35 USC § 112

10. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

11. Claims 1, 5, 10, 16-18, 20, 25, 30 and 44-49 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
12. Applicant has amended claim 1 and added claims 48 and 49 to incorporate the following limitation: *each job seeker is presented with a list of skills relating to a position of interest and asked to rank their efficiency with each of the skills*. Further, a score is generated based on the rankings. Additionally, in claim 44, the job seeker is asked to ***rank their efficiency with each of the tools***. The specification does not provide any support for ranking efficiency of skills or tools.
13. The specification discloses the following beginning on page 6:
14. For example, the **job seeker may rank their job experience with the skills** established by the employer. Similar to the rankings described above, the job seeker's ranking may involve qualitative ranking factors (e.g. expert, proficient, limited, etc.) or quantitative factors, or both. Next, at a block 154, the job seeker may rank their desire to perform the various job skills defined by the employer (e.g. like very much, like, indifferent, dislike, etc.). The **job seeker may then rank their experience with the tools** applicable to the position at a block 156. Similarly, at a block 157, the job seeker may rank their desire to work with the tools applicable to the position. Then, the job seeker may finish the inline interview by uploading their resume (or updating their resume if previously provided) at a block 158. Next, the job seeker's inputs into the inline interview may be scored based on a customized scoring algorithm at a block 160, as described more fully below. The job seeker's relevant application information may then be stored in the job seeker database 146, completing the job application process 140.
15. The Examiner asserts that there is no disclosure for a job seeker providing rankings of efficiency with skills or tools, therefore, there is no disclosure for basing a score on the rankings. For purposes of examination, the Examiner will understand the rankings to be based on experience.

13. Claims 16-18, 20, 45 and 46 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.
16. Claim 16 contain limitations directed toward generating a score based on various factors, including *required skills met*, *required skills exceeded*, *custom skills met*, *custom skills exceeded*, *extra skills*, *required tools met*, *required tools exceeded*, *custom tools met*, *custom tools exceeded* and *extra tools*. The specification does not provide definitions of these factors or guidance as to how these factors are calculated from the position description and the inline interview. The disclosure provides that qualitative data such as expert, proficient, like very much, dislike, is inputted as ranking data. Therefore, one of ordinary skill in the art is incapable of ascertaining how to interpret and use the qualitative ranking data to derive the claimed factors for the calculation of the job seeker score.
17. Furthermore, claims 16 and 45 require the input of *an average desire to perform* required, custom, extra and all skills. The specification does not provide any guidance on either the definition of an average desire to perform or how to calculate such a factor.
18. Claim 46 requires counting the occurrence of keywords to validate the results of the inline interview. Page 9, lines 26-28 discloses: "the employer performing a validation of the results of the inline interview by, for example, counting occurrences of key works and phrases from the tools and skills descriptions in the job seeker's resume" however, this does not suffice to provide the appropriate guidance and direction as to how counting keywords validates results of the inline interview. No guidance is provided as to what results are validated.
19. The applicant has not provided guidance and direction as to these factors or their derivation. Thus, the Examiner asserts that specification does not provide sufficient guidance and direction to one skilled in the art to make and use applicant's invention without undue experimentation.

20. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

21. Claims 5, 16-18, 20, 25, 45 and 47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
22. Claims 5 and 25 states that the desired ranking includes *a like, a dislike and an indifference*. It is unclear how a single ranking event can comprise three different ranking inputs. For example, if asked to rank a given desire to perform a given skill, the job seeker would only be able to input one response, not three.
23. Claim 16 is directed toward generating a score based on various factors that, in accordance with the specification of page 3; lines 13-25, is based on a comparison of a position description and the inline interview, therefore, claim 16 omits the essential step of disclosing the necessary components of the position description that are necessary to determine factors such as *required skills met*, etc. Claim 1 is solely directed to input of the job seeker and the inline interview, therefore, does not disclose the requirements of the job necessary to determine which skills are met, etc.
24. Claim 20 uses terminology inconsistent with claims 1 and 16. Claims 1 and 16 recite a job seeker's desire to perform skills, whereas claim 20 recites a job seeker's desire to perform a specified job activity. It is unclear how the specified job activity relates to the skills. Furthermore, it is unclear what is the differentiation between *experience* and *capability*. The specification does not provide guidance as to how these terms differ. In contrast, the specification on page 6, line 26 provides that experience may be ranked as expert, proficient, limited, etc. One of ordinary skill in the art would understand these rankings to define capability.
25. Claim 45 states that "the rankings are based on an average desire to perform all skills". Claim 1 provides for a job seeker ranking their desire to perform each of the skills. It is unclear whether

the intent of claim 45 is to average the rankings given to each skill and thus determine an average desire for all skills or whether a job seeker has ranked each skill desire as "average".

26. Claim 47 states, a *computer for performing the method of claim 1*. A computer is an apparatus, therefore, as dependent from a method claim, the statutory class (i.e., process, machine, manufacture, or composition of matter) is unclear.

Claim Rejections - 35 USC § 101

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

22. Claims 1, 5, 10, 16-18, 20, 25, 30 and 44-46 are rejected as being directed to non-statutory subject matter. Independent claim 1 is a method claim that recites process steps that are not tied to another statutory class, such as a particular apparatus. Based on Supreme Court precedent (*Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972) and *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)) and recent Federal Circuit decisions, a 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. If neither of these requirements is met by the claim, the method is not a patent eligible process under 35 U.S.C. 101.

Claim Rejections - 35 USC § 103

27. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

28. **Claims 1, 5, 10, 16-18, 20, 25, 30** are rejected under 35 U.S.C. 103(a) as being unpatentable over Puram et al. (US Pat. No. 6,289,340, hereafter referred to as "Puram") in view of Stimac (US Pub. No. 2003/0071852) in view of McCall et al. (US Pub. No. 2002/0059228, hereinafter referred to as "McCall").
29. **Claims 1, 47, 48 and 49:** Puram discloses the computer and article (C2; L35-43 and Fig. 1a-c)
- *providing the inline interview to one or more prospective job seekers; (col. 2; lines 50-53) wherein each job seeker is presented with a list of skills and asked to rank their efficiency with each of the skills; (col. 4; lines 6-12)*
 - *generating a score for each of the job seekers, each score based at least in part on the rankings. (col. 7; lines 13-26).*
30. Puram does not disclose that the inline interview skills are *related to a position of interest*.
31. Stimac, however, discloses a method and system that allows a job applicant to answer a series of predetermined job related profile questions that are custom tailored for each position (P[0009]) (i.e., an inline interview for the position to be filled).
32. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included targeting the skills assessment for a position of interest, as disclosed by Stimac, in the system of Puram for the motivation of increasing a pool of eligible job applicants by providing a means for applicants who don't have a current and ready resume to apply, as well as allowing applicants to customize responses to a specific position. (Stimac; P[0004]). A further advantage of providing position specific profiling is the ability to collect a history of successful and unsuccessful hires in order to statistically analyze the data to improve hiring practices in the future. (Stimac; P[0135]).
33. Puram does not disclose a job seeker ranking *their desire to perform each of the skills*.
34. McCall, however, discloses a system for matching job seekers to jobs based on skills and preferences. The "eres owner" (i.e., the job seeker) assess factors related to job preferences on the basis of how important it is (P[0098]) using relative weights, including a range of values (i.e., a ranking is performed) (P[0099]). The job preference segment includes the eres owner's desired

career focus areas. (P[0079]). The career focus area describes the type of work sought. The system provides a multi-tiered collection of choices that drill down to greater specificity. P[0138] provides an example of specific career focus areas within "Legal Services". Skills are inherent in a specific career, therefore the designation of preferred career focus areas through a numerical range (P[0137]) results in ranking a desire to perform the skills associated with each career focus area. McCall further discloses a match factor and a final score. (P[0185-0187])

35. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included ranking skill preferences, as disclosed by McCall, in the system of Puram for the motivation of giving users the ability to have greater control over the results of a search by weighing preferences with regard to attributes in a given data file. (McCall;P[0011]). Puram discloses that during data matching, candidates' records are compared to skill and preference data in order to weed out candidates that would not be interested in a given position. (C7; L20).
10. **Claims 5 and 25:** Puram/Stimac/McCall discloses the limitations of claims 1 and 48, above. Puram does not disclose a ranking of like, dislike and indifference.
11. However, these differences are only found in the **nonfunctional descriptive data** and are not functionally involved in the steps recited. **The ranking would be performed regardless of attribute name of the rank.** Thus, this descriptive data will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).
36. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included selections of preference such as like, dislike or indifferent because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the name of a ranking determination does not patentably distinguish the claimed invention.
37. **Claims 10 and 30:** Puram/Stimac/McCall discloses the limitations of Claims 1 and 48, above. Puram further discloses *posting the inline interview on a website of a global computer communication network.* (col. 3; lines 27-31 and Figure 1c).

38. **Claim 44:** Puram discloses that candidates rank experience information regarding tools (C4; L6-22) and desire (C7; L12-19) but does not disclose ranking their desire to use each of the tools.
39. McCall, however, discloses a system for matching job seekers to jobs based on skills and preferences. The "eres owner" (i.e., the job seeker) assess factors related to job preferences on the basis of how important it is (P[0098]) using relative weights, including a range of values (i.e., a ranking is performed) (P[0099]). The job preference segment includes the eres owner's desired career focus areas. (P[0079]). The career focus area describes the type of work sought. The system provides a multi-tiered collection of choices that drill down to greater specificity. P[0138] provides an example of specific career focus areas within "Legal Services". Tools used to perform in the position are inherent in a specific career area, therefore the designation of preferred career focus areas through a numerical range (P[0137]) results in ranking a desire to use the tools associated with each career focus area. McCall further discloses a match factor and a final score. (P[0185-0187])
40. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included ranking tool preferences, as disclosed by McCall, in the system of Puram for the motivation of giving users the ability to have greater control over the results of a search by weighing preferences with regard to attributes in a given data file. (McCall;P[0011]). Puram discloses that during data matching, candidates' records are compared to skill and preference data in order to weed out candidates that would not be interested in a given position. (C7; L20).
41. **Claim 45:** Puram discloses desire (C7; L12-19) but does not disclose an average desire. McCall, as discussed above, discloses ranking preferences, but does not disclose an average.
42. However, these differences are only found in the **nonfunctional descriptive data** and are not functionally involved in the steps recited. **The rankings would be performed regardless of the level of desire.** Thus, this descriptive data will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

43. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included average desire because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the rank designation does not patentably distinguish the claimed invention.
12. Claims 16-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Puram et al. (US Pat. No. 6,289,340, hereafter referred to as "Puram") in view of Stimac (US Pub. No. 2003/0071852) in view of McCall et al. (US Pub. No. 2002/0059228, hereinafter referred to as "McCall") in further view of Herz (US Pat. No. 6,029,195).
13. **Claim 16:** Puram/Stimac/McCall discloses the limitations of Claim 1, above. Puram further discloses *required, custom and extra* (col. 6; lines 15-31 (core and custom) and col. 6; line 8 (beneficial)); *skills and tools met and exceeded* (col. 6; lines 1-2; (skills and tools) col. 7; lines 34-37 (fit the needs) and 51-54 (exceeds)); and *desire* (col. 7; lines 12-19).
14. Puram does not disclose *multiplying by a weighted value to produce a product*.
15. Herz, however in column 22, lines 2-28, discloses multiplying a distance between two object sets by a weighting factor.
16. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included multiplying by a weighting factor, as disclosed by Herz in the system disclosed by Puram, for the motivation of providing a method of specifying "the relative importance of the attributes in establishing similarity or difference..." (Herz; col. 22; lines 22-24).
17. **Claims 17 and 18:** Puram/Stimac/McCall in view of Herz discloses the limitations of Claim 16, above. Puram does not disclose equivalent weightings or varying weightings.
18. Herz, however in column 20, lines 23-47, discloses "Not all point estimates ... should be given equal weight" and "point estimates ... should be weighted less heavily..." and "estimate of topical interest...should be weighted more heavily if user V has had more experience..."
19. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a variety of weightings, including equivalent, as disclosed by Herz in

- the system disclosed by Puram, for the motivation of providing a method of specifying "the relative importance of the attributes in establishing similarity or difference..." (Herz; col. 22; lines 22-24).
20. **Claim 20:** Puram/Stimac/McCall in view of Herz discloses the limitations of Claim 16, above. Puram further discloses *desire to perform* (col. 7; lines 12-15) and *experience* (col. 4; line 44).
21. Puram does not disclose varying weightings.
22. Herz, however in column 20, lines 23-47, discloses "Not all point estimates ... should be given equal weight" and "point estimates ... should be weighted less heavily..." and "estimate of topical interest...should be weighted more heavily if user V has had more experience..."
44. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a variety of weightings, including equivalent, as disclosed by Herz in the system disclosed by Puram, for the motivation of providing a method of specifying "the relative importance of the attributes in establishing similarity or difference..." (Herz; col. 22; lines 22-24).
45. **Claim 46** is rejected under 35 U.S.C. 103(a) as being unpatentable over Puram et al. (US Pat. No. 6,289,340, hereafter referred to as "Puram") in view of Stimac (US Pub. No. 2003/0071852) in view of McCall et al. (US Pub. No. 2002/0059228, hereinafter referred to as "McCall") in further view of Linz (US Pub. No. 2001/0032112).
46. **Claim 46:** Puram/Stimac/McCall discloses the method of claim 1. Puram does not disclose counting keywords to validate results.
47. Linz, however, discloses assigning a more favorable status to job applicants whose resumes include certain keywords. (P[0022]).
48. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included counting keywords to validate results, as disclosed by Linz, in the system of Puram for the motivation of matching job applicants to specific employment opportunities (Linz; Abstract). It is obvious that a job applicant, in addition to storing skill profiles for matching to job

opportunities as taught by Puram, would submit resumes to perspective employers. Therefore it is obvious to screen resumes for keywords to designate potential candidates in order to expedite an employer's need to fill a position.

Response to Arguments

22. Applicant's arguments with respect to claim 1 has been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabrielle McCormick whose telephone number is (571)270-1828. The examiner can normally be reached on Monday - Thursday (5:30 - 4:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. M./
Examiner, Art Unit 3629

/John G. Weiss/
Supervisory Patent Examiner, Art Unit 3629